

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION**

CATHERINE ALEXANDER,)	
)	
Plaintiff,)	
)	
-vs-)	
)	
TAKE-TWO INTERACTIVE SOFTWARE, INC.,)	
2K GAMES, INC.; 2K SPORTS, INC.; WORLD)	CASE NO. 3:18-CV-966-SMY-MAB
WRESTLING ENTERTAINMENT, INC.;)	
VISUAL CONCEPTS ENTERTAINMENT;)	
YUKE'S CO., LTD.; AND YUKE'S LA, INC.,)	
)	
Defendants.)	
)	

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR EXTENSION OF TIME
TO FILE A RESPONSE TO DEFENDANTS' MOTIONS TO
EXCLUDE TESTIMONY OF PLAINTIFF'S EXPERTS**

Defendants Take-Two Interactive Software, Inc., 2K Games, Inc., 2K Sports, Inc., Visual Concepts Entertainment (collectively “Take-Two”), Yuke’s Co., Ltd., and Yuke’s LA Ltd. (“Yuke’s”) and World Wrestling Entertainment, Inc. (“WWE”) (together with Take-Two and Yuke’s, “Defendants”) respectfully submit this response to Plaintiff Catherine Alexander’s (“Plaintiff”) November 20, 2019 motion seeking to extend to December 9, 2019 her time to respond to Defendants’ *Daubert* motions, which seek to exclude both of her experts’ testimony (Dkt No. 153) (the “Motion to Extend”).

Plaintiff filed the Motion to Extend on November 20, 2019, just two days before the November 22, 2019 deadline. Mere hours before filing the Motion to Extend, Plaintiff informed Defendants of her intent to file and asked for their consent, leaving Defendants little time to consider and attempt to resolve the issue. Plaintiff had been aware of the deadline to respond to the Defendants’ *Daubert* motions for almost two weeks when she informed Defendants of the

need for an extension and, thus, presumably was able to anticipate well in advance her counsel's conflicts and the possibility of filing a response, neither of which are addressed in her motion.

Defendants understand that the parties may need to work around vacations and other commitments, but this does not excuse Plaintiff's extreme delay or last minute rush to file her motion.

As a longer briefing schedule would necessarily delay a decision on Defendants' *Daubert* motions and thereby interfere with Defendants' trial preparation and planning, Defendants asked whether Plaintiff would consent to a motion to stay pre-trial proceedings other than the pending motions to dismiss (Dkt. Nos. 89, 91), motion for summary judgment (Dkt. No. 141), and *Daubert* motions (Dkt. Nos. 143, 145). This is a straightforward solution to Plaintiff's desire for more time and Defendants' interest in conserving the parties' and the Court's judicial resources when case dispositive motions are pending. As Plaintiff notes, a number of vacancies have imposed additional burdens on this Court, and proceeding with the remaining pre-trial deadlines when case and/or issue dispositive motions are pending before the Court will waste those scarce judicial resources. Moreover, Plaintiff has not explained how such a stay would prejudice her, and in any case, it would also help her conserve resources as well.

Ultimately, what Plaintiff dismisses in its Motion to Extend as a "quid pro quo" was instead a reasonable attempt to compromise, as is often necessary to ensure efficient litigation. Yet, Plaintiff summarily declined Defendants' proposal, rebuffing any attempt to devise a solution that satisfied both parties, and filed her Motion to Extend shortly after the parties' exchange without leaving time for the parties to come up with a workable solution. Later that day, Take-Two and Yuke's filed their motion to stay pre-trial proceedings (Dkt. No. 155). WWE joined the motion on November 21, 2019 (Dkt. No. 156).

With regard to the Motion to Extend, Defendants note that the Court has not granted Plaintiff's motion, nor did Plaintiff file briefs in opposition to Defendants' *Daubert* motions on the date set by the Court. Thus, Plaintiff has missed the deadline to oppose, and her motion now actually seeks permission to file late oppositions despite having disregarded the timetable set by the Court. Defendants do not oppose providing Plaintiff more time to file her briefs, but if the Court excuses her late filing and permits the filing of the opposition briefs on December 9, 2019, it only underscores the need to stay the pre-trial conference and related deadlines and proceedings. This will allow the Court time to consider the parties' various pending motions without requiring the expenditure of additional resources in preparation for trial. Accordingly, Defendants respectfully request that, if the Motion to Extend is granted, then their motions to stay also be granted.

To be clear, in raising these issues, Yuke's and WWE intend to preserve all arguments set forth in their pending motions to dismiss.

Dated: December 2, 2019

Respectfully submitted,

/s/ Dale M. Cendali

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VISUAL CONCEPTS ENTERTAINMENT;)	
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Defendants.)	
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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2019, I electronically filed the foregoing DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO FILE A RESPONSE TO DEFENDANTS' MOTIONS TO EXCLUDE TESTIMONY OF PLAINTIFF'S EXPERTS with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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